IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.10.2007

CORAM

THE HONOURABLE MR. JUSTICE S.J.MUKHOPADHAYA
and
THE HONOURABLE MR. JUSTICE N.PAUL VASANTHAKUMAR

Writ Petition No. 47114 of 2002
and
W.P.M.P.No.68327 of 2002

M.Chandrasekar ... Petitioner.

Vs

1. Union of India rep. by Secretary,
Ministry of Surface Transport (Road Wing)
New Delhi.

2. State of Tamil Nadu rep. by the
Chief Secretary,
Fort St. George, Chennai-9.

3. Principal,
'The Ashram',
Metriculation Higher Secondary School,
99-A-110 Velacheri Road, Chennai-32.

4. Commissioner of Police,
Chennai-600 008. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus for the relief as stated therein.

For Petitioner : Mr.M.V.Krishnan
For Respondents : Mr.V.Bharathidasan, SCGSC, for R1
Mr.D.Sreenivasan, AGP, for R2 and R4

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O R D E R

(Order of the Court was made by S.J.MUKHOPADHAYA,J.)

This Public Interest Litigation was preferred by the petitioner for issuance of writ of mandamus directing the respondents to ensure safety of the school children travelling by school vehicles by following the guidelines laid down by the Supreme Court in M.C.Mehta Vs. Union of India and others (1997) 8 S.C.C. Page 770.

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It was alleged that the actual working of the licensing procedures are lax, which is causing accident and punishment meted out even in the fatal accident is not deterrent enough. The schools do not take care to ensure that children studying in their schools and travelling by school buses safely board and alight to and from schools. The children in the Kinder Garden and standards 1 to 3 require special attention.

2. Learned counsel for the petitioner submitted that the Management of Schools are negligent in this regard and they should think their obligations to the students and parents does not extend beyond school hours. The drivers of the offending vehicles are able to get off with a fine of a couple of thousands and they obtain bails with ease. It was alleged that in spite of the decision rendered by the Supreme Court in the case of M.C.Mehta supra, the direction therein has not been followed within the State of Tamil Nadu.

3. On 7th September, 2007, the Home Department, Government of Tamil Nadu, was allowed time to file affidavit and state whether the decision of the Supreme Court rendered in the case of M.C.Mehta supra, has been implemented in the State of Tamil Nadu in its letter and spirit for the safety of the school children.

4. Pursuant to the said order, a Status Report was filed by the 2nd respondent, wherein the following submissions have been made:-

> "4. As a first step, the Zonal Officers of the Transport Department have been asked to take necessary steps as detailed below:-
>
> i.The Regional Transport Officers in their jurisdiction shall convene meeting wherein the Headmasters/ Headmistresses/ Principals of the respective schools and colleges should be invited so as to enable them to observe the Directives of the Honourable Supreme Court's directions and implement them in letter and in spirit.
>
> iii.The Motor Vehicles Inspectors should see that the Supreme Court's Directives are scrupulously followed at the time of granting/ renewing Fitness Certificates to the Educational Institutions Vehicles and the Regional Transport Officers should closely monitor this aspect.
>
> v.The Regional Transport Officers should frequently conduct special checks and book cases of overloading in Educational Institution vehicles.
>
> 5. Consequent on the convening of a Meeting with the officials of Education, Transport, Police and with the Headmasters of the leading schools in this State by the Hon'ble Minister for Secondary School Education, Government of Tamil Nadu and also in order to implement

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the Directives of the guidelines of the Honourable Supreme Court of India and in order to avert accidents, the following guidelines were issued by the Transport Commissioner, Chennai, to all the Officers of the Transport Department in letter No.18590/H3/2006 dated 17.08.2006 which is annexed herewith. (Circular No.21 of 2006).

i.The checking officials of Transport Department should conduct more number of effective checking of school/college vehicles plying over speedily.

ii.Checking shall be conducted on over loading of students exceeding the permitted capacity in Autorickshaws, Vans, Mini Buses and other categories of vehicles without causing hindrance with the functioning of the schools and they shall be impounded wherever warranted.

iv.The licences of the Drivers depending upon the irregularities shall either be suspended/revoked deterrently.

vi.Regional Transport Officers should take suitable action for provision of Speed Breakers and Sign Boards near the premises of the schools and colleges.

viii.The correspondents of schools and colleges and their drivers have to be issued with the instructions wherever and whenever 'plying with overspeed and negligence of driving' is noticed. Action shall be taken according to law against the erring drivers.

x.All the vehicles belonging to Educational Institutions shall be prominently written with on the back and front as 'Educational Institution Vehicle' and shall be enforced by the checking officials of the Transport Department.

xii.If the Educational Institution hires vehicles they shall be displayed prominently with 'On School Duty' and shall be enforced by the checking officials of the Transport Department, at the time of vehicles checking and at the time of renewal of fitness certificate of such vehicles.

xiv.First Aid Box should be provided in all the Educational Institution Vehicles and shall be ensured by the field officers of the Transport Department.

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xvi.Windows of Educational Institution Vehicles shall be fitted with the Horizontal Grills.

xviii.Fire Extinguishers shall be provided in all Educational Institution Vehicles and this should be watched by the field officers of the Transport Department.

xx.All vehicles shall be written with the school name and telephone number and this shall be ensured by the Transport Officials.

xxii.Doors of the Educational Institution Vehicles shall be fitted with reliable locking facilities.

6. It has also been requested that the Regional Transport Officers shall furnish copies of the above Circular to the District Collectors, Superintendents of Police, Revenue Divisional Officers, Deputy Superintendents of Police and also to widely publicise the above issue through media such as Newspapers, Magazines, Pamphlets etc."

6. Though the aforesaid submissions have been made in the Status Report, but it appears that the concerned authorities have to comply with the following observations of the Supreme Court rendered in M.C.Mehta -VS- Union of India and others reported in (1197) 8 Supreme Court Cases 770 :-

"No bus belonging to or hired by an educational institution shall be driven by a driver who has

- less than ten years or experience;

- been challenged more than twice for a minor traffic offence;

- been charged for any offence relating to rash and negligent driving.

All such drivers would be dressed in a distinctive uniform, and all such buses shall carry a suitable inscription to indicate that they are in the duty of an educational institution.

To enforce these directions, flying squads made up of interdepartmental teams headed by an SDM shall be constituted and they shall exercise powers under Section 207 as well as Section 84 of the Motor Vehicles Act.

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The Government is directed to notify under Section 86(4) the officers of the rank of Assistant Commissioners of Police or above so that these officers are also utilised for constituting the flying squads."

7. In the facts and circumstances, we direct the respondents to comply with the principles laid down by the Supreme Court in the case of M.C.Mehta supra, in respect to School buses and the buses bearing the school children in its letter and spirit. The checking of overloading, over-speeding, license of drivers and checking of drivers whether any of them is driving in intoxicated condition be made periodically not less than four times in a year. It will be duty of the Home Department, concerned authorities of Transport Department, Superintendents of Police and other police officials of a District to comply with the directions of the Supreme court and of this Court in its letter and spirit. All the Institutions will inform the gist of the Supreme Court's order and directions of this Court by individual letter or by publication in three daily widely circulated newspapers, two vernacular and one English.

8. So far as the question whether the vehicles carrying school children should be provided with a particular colour to be determined by the State, which may take appropriate decision within six weeks. If any particular colour is suggested by the State, they will notify and inform it to all the schools in general.

9. If the order is violated or not complied with in letter and spirit, it will be open to the petitioner or any other party concerned to bring it to the notice of the Court. Let a copy of this order be handed over to the Counsel for the State for information to all officers.

10. The writ petition stands disposed of with aforesaid observation and directions. Connected W.P.M.P. is closed. However, there shall be no order as to costs.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1. The Secretary, Union of India,
Ministry of Surface Transport (Road Wing)
New Delhi.

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2. The Chief Secretary, State of Tamil Nadu,
Fort St. George, Chennai-9.

3. The Commissioner of Police,
Chennai-600 008.

4. Mr.D.Srinivasan,
Additional Government Pleader,
High Court, Madras.

1 cc To Mr.V.Bharathidasan, Advocate, SR.62527.
1 cc To The Government Pleader, SR.62431.

W.P.No.47114 Of 2002

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